

Sales to a governmental body are generally subject to tax unless the governmental body has an active exemption identification "E" number. See 86 Ill. Adm. Code 130.2080. (This is a GIL.)

November 3, 2004

Dear Xxxxx:

This letter is in response to your letter dated May 11, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am writing on behalf of ABC to request a ruling on several sales tax issues regarding tax exempt government agencies. We sell airline timetables to many government agencies that are tax exempt and there is sometimes difficulty obtaining a sales tax exemption certificate. Sales tax will be included on the invoice in such case that an exemption certificate is not provided. However, many will still not pay the sales tax leaving the burden of payment with ABC.

Our current process includes a sales order confirmation that must be signed and sent back to us before product delivery. We would like to add a line on the order confirmation that would have the user acknowledge that the software and data ordered will be licensed by the government entity that the individual is ordering for. Please see below for intended wording.

I acknowledge that, for tax purposes, the software and data ordered herein will be licensed by the below-referenced government entity.

ABC would like to use these order confirmations, pending state approval, as proof of tax exemption for the ordering government entity in the case that a sales tax exemption certificate has not been provided.

Also, some government purchasers have told ABC that states will accept an entity's 'E' number or the use of a government issued credit card as proof of tax exemption. We would like verification on these as to whether these are valid for the state.

Please provide a ruling on these issues as to which are permitted by the state.

If you need to, I can be contacted at the numbers or email address listed below. Thank you for your time.

DEPARTMENT'S RESPONSE:

Organizations that are exempt under federal income tax law are not automatically exempt under Illinois tax law. Organizations that make application to the Department and are determined to be exclusively religious, educational, or charitable, receive an exemption identification "E" number. See 86 Ill. Adm. Code 130.2007. This number evidences that this State recognizes that the organization qualifies as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of its organizational purpose. Sales to a governmental body are subject to tax unless the governmental body has an active exemption identification "E" number. See 86 Ill. Adm. Code 130.2080. If an organization or governmental body does not have an "E" number, then its purchases are subject to tax. Please be aware that only sales to the organization or governmental body holding the "E" number are exempt, not sales to individual members of the organization. See 86 Ill. Adm. Code 130.2007.

However, Illinois retailers may accept U.S. Government Bank Cards in sales to the U.S. Government and its agencies without requiring an Illinois exemption number. When making a purchase, the holder of the card presents it to the retailer, who records the card number instead of collecting tax. For further information, please see the Department's letter rulings regarding sales to governmental bodies, such as ST-02-0125-GIL. These letter rulings may be found among the Department's Sales Tax "Sunshine Letter" rulings listed on the Department's internet website under the heading of Legal Research.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk